

110TH CONGRESS
1ST SESSION

S. 1973

To amend the Internal Revenue Code of 1986 to double the period of limitations for returns involving offshore secrecy jurisdictions, to modify certain other provisions relating to the statute of limitations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2007

Mr. SALAZAR introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to double the period of limitations for returns involving offshore secrecy jurisdictions, to modify certain other provisions relating to the statute of limitations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SIX-YEAR STATUTE OF LIMITATIONS FOR IN-**
4 **VESTIGATIONS INVOLVING OFFSHORE SE-**
5 **CRECY JURISDICTIONS.**

6 (a) IN GENERAL.—Section 6501(c) of the Internal
7 Revenue Code of 1986 (relating to exceptions from limita-

1 tions on assessment and collection) is amended by adding
 2 at the end the following new paragraph:

3 “(11) RETURNS INVOLVING OFFSHORE SE-
 4 CRECY JURISDICTIONS.—If, for any taxable year,
 5 any item of a taxpayer (other than an entity the
 6 ownership interests in which are regularly traded on
 7 an established securities market) is an offshore se-
 8 crecy jurisdiction item (as defined in subsection (n)),
 9 the tax imposed by this title for such taxable year
 10 may be assessed, or a proceeding in court for the
 11 collection of such tax may be begun without assess-
 12 ment, at any time within 6 years after the return of
 13 such tax was filed.”.

14 (b) TERMS RELATING TO OFFSHORE SECRECY JU-
 15 RISDICTION ITEMS.—Section 6501 of the Internal Rev-
 16 enue Code of 1986 (relating to limitations on assessment
 17 and collection) is amended by redesignating subsection (n)
 18 as subsection (o) and by inserting after subsection (m) the
 19 following new subsection:

20 “(n) TERMS RELATING TO OFFSHORE SECRECY JU-
 21 RISDICTION ITEMS.—For purposes of subsection (c)(11)—

22 “(1) OFFSHORE SECRECY JURISDICTION
 23 ITEM.—The term ‘offshore secrecy jurisdiction item’
 24 means any item of a taxpayer which is directly or in-
 25 directly attributable to any account, entity, or trans-

1 action involving an offshore secrecy jurisdiction.

2 Such term shall include any item directly or indi-
3 rectly attributable to—

4 “(A) the formation or ownership by the
5 taxpayer of any applicable account or entity (or
6 any interest in such account or entity),

7 “(B) the transfer of any money or other
8 property by the taxpayer to any applicable ac-
9 count or entity or the transfer by the taxpayer
10 of any interest in such account or entity, or

11 “(C) the receipt, or use, by the taxpayer of
12 any money or other property from any applica-
13 ble account or entity.

14 “(2) APPLICABLE ACCOUNT OR ENTITY.—The
15 term ‘applicable account or entity’ means any finan-
16 cial account, or any entity (including a trust, cor-
17 poration, limited liability company, partnership, or
18 foundation), which is formed, located, domiciled, or
19 operating in an offshore secrecy jurisdiction. Such
20 term shall not include an entity the ownership inter-
21 ests in which are regularly traded on an established
22 securities market.

23 “(3) OFFSHORE SECRECY JURISDICTION.—

24 “(A) IN GENERAL.—The term ‘offshore se-
25 crecy jurisdiction’ means any foreign jurisdic-

tion which the Secretary determines for purposes of this subsection is a jurisdiction which—

“(i) has corporate, business, bank, or tax secrecy rules or practices which, in the judgment of the Secretary, unreasonably restrict the ability of the United States to obtain information relevant to the enforcement of this title, and

“(ii) does not have effective information exchange practices.

“(B) SECRECY OR CONFIDENTIALITY RULES AND PRACTICES.—For purposes of subparagraph (A)(i), corporate, business, bank, or tax secrecy or confidentiality rules and practices include both formal laws and regulations and informal government or business practices which have the effect of inhibiting access of law enforcement and tax administration authorities to information regarding beneficial ownership and other financial information.

“(C) INEFFECTIVE INFORMATION EXCHANGE PRACTICES.—For purposes of subparagraph (A)(ii), a jurisdiction shall be deemed to have ineffective information exchange practices

1 unless the Secretary determines, on an annual
2 basis, that—

3 “(i) such jurisdiction has in effect a
4 treaty or other information exchange
5 agreement with the United States which
6 provides for the prompt and obligatory ex-
7 change of such information which is rel-
8 evant for carrying out the provisions of the
9 treaty or agreement or the administration
10 or enforcement of this title,

11 “(ii) during the 12-month period pre-
12 ceding the annual determination, the ex-
13 change of information between the United
14 States and such jurisdiction was in prac-
15 tice adequate to carry out the provisions of
16 the treaty or agreement; and

17 “(iii) during the 12-month period pre-
18 ceding the annual determination, such ju-
19 risdiction was not identified by an inter-
20 governmental group or organization of
21 which the United States is a member as
22 uncooperative with international tax en-
23 forcement or information exchange and the
24 United States concurs in such identifica-
25 tion.”.

1 **SEC. 2. SUSPENSION OF STATUTE OF LIMITATIONS WHILE**
 2 **SUMMONS FOR FOREIGN BASED RECORDS IS**
 3 **PENDING.**

4 Section 6503 of the Internal Revenue Code of 1986
 5 (relating to suspension of running of period of limitation)
 6 is amended by redesignating subsection (k) as subsection
 7 (l) and by inserting after subsection (j) the following new
 8 subsection:

9 “(l) SUSPENSION WHILE SUMMONS FOR RECORDS
 10 OF FOREIGN ACCOUNT, ENTITY, OR TRANSACTION IS
 11 PENDING.—

12 “(1) IN GENERAL.—If any summons is issued
 13 by the Secretary to a taxpayer (or to any other per-
 14 son to whom the taxpayer has transferred records)
 15 with respect to a return of tax by such taxpayer, and
 16 such summons requires the production of records re-
 17 lating to an account, entity, or transaction involving
 18 a foreign jurisdiction, the running of any period of
 19 limitations under section 6501 on the assessment of
 20 such tax shall be suspended during any judicial en-
 21 forcement period (as defined in subsection (j)(3))
 22 with respect to such summons and for 120 days
 23 thereafter. This subsection shall not apply to a sum-
 24 mons for the production of records relating to a for-
 25 eign entity the ownership interests in which are reg-
 26 ularly traded on an established securities market

1 designated by the Secretary for purposes of this sub-
 2 section.

3 “(2) SPECIFIC APPLICATION.—Except as pro-
 4 vided in the last sentence of paragraph (1), this sub-
 5 section shall apply in any case where the summons
 6 referred to in paragraph (1) relates to—

7 “(A) a financial account, or an entity (in-
 8 cluding a trust, corporation, limited liability
 9 company, partnership, or foundation), formed,
 10 located, domiciled or operating in a foreign ju-
 11 risdiction, or

12 “(B) a case in which the taxpayer directly
 13 or indirectly transferred money or other prop-
 14 erty to, or received money or property from,
 15 such an account or entity or any other person
 16 in a foreign jurisdiction.”.

17 **SEC. 3. EXTENSION OF STATUTE OF LIMITATIONS DURING**
 18 **FAILURE TO NOTIFY SECRETARY OF CERTAIN**
 19 **FOREIGN TRANSFERS.**

20 Section 6501(c)(8) of the Internal Revenue Code of
 21 1986 (relating to failure to notify Secretary of certain for-
 22 eign transfers) is amended by striking “event” and insert-
 23 ing “tax return”.

1 **SEC. 4. EXCEPTION TO STATUTE OF LIMITATIONS ON COL-**
 2 **LECTION IN CASE OF ATTEMPT TO EVADE**
 3 **COLLECTION.**

4 Section 6502 of the Internal Revenue Code of 1986
 5 (relating to collection after assessment) is amended by
 6 adding at the end the following new subsection:

7 “(c) **EXCEPTION IN CASE OF ATTEMPT TO EVADE**
 8 **PAYMENT.**—In a case of a willful attempt in any manner
 9 to evade or defeat the payment of any tax that has been
 10 assessed under this title, the time for collection of such
 11 tax by levy or by a proceeding in court shall not expire
 12 before the date which is 10 years after such attempt.”.

13 **SEC. 5. EFFECTIVE DATES.**

14 (a) **IN GENERAL.**—The amendments made by this
 15 Act (other than section 4) shall apply to—

16 (1) returns filed after the date of the enactment
 17 of this Act; and

18 (2) returns filed on or before such date if the
 19 period specified in section 6501 of the Internal Rev-
 20 enue Code of 1986 (determined without regard to
 21 such amendments) for assessment of such taxes has
 22 not expired as of such date.

23 (b) **COLLECTIONS.**—The amendment made by section
 24 4 shall apply to—

25 (1) assessments made after the date of the en-
 26 actment of this Act; and

1 (2) assessments made on or before such date if
2 the period specified in section 6502 of the Internal
3 Revenue Code of 1986 (determined without regard
4 to such amendment) for collection of such taxes has
5 not expired as of such date.

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